

Senate bill No. 1 was read a second time and ordered engrossed.

Senate bill No. 2 was read a second time and ordered engrossed.

House bill No. 18 was read first time; rules suspended, read second time and ordered engrossed. Rules further suspended, read third time and passed.

A message was received from the House, announcing the passage of a substitute for Senate bill No. 10, to repeal an act entitled "An act regulating public printing," approved August 13, 1870.

Senator Sayers offered a resolution that a select committee of five be appointed to investigate the accounts of J. C. De Gress, Superintendent of Public Instruction, and report to this body, and that the chairman be allowed a clerk during the investigation.

Senator Word moved to amend by authorizing committee to send for persons and papers. Carried.

Resolution as amended adopted.

The following committee was appointed: Senators Sayers, Avinger, Ball, Hall and Rawson.

On motion of Senator Hall, Senate adjourned till ten o'clock, A. M. to-morrow.

SENATE CHAMBER,

AUSTIN, TEXAS, January 23, 1873.

Senate met pursuant to adjournment. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Shelley, Senator Sayers was excused from morning session.

Journal of yesterday read and adopted.

On motion of Senator Shelley, the Secretary was instructed, in making up the journal, to designate all bills by caption and not by number.

Senator Finlay presented memorial of the Prison Reform Association of Texas, which was read and referred to the Committee on State Affairs.

Senator Dillard presented memorial of certain citizens of the town of Crockett, in Houston county, praying more stringent legislation in regard to ten pin alleys, which was read and referred to Judiciary Committee No. 2.

The following message from the Governor was received, read and passed to the orders of the day:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 22, 1873. }

To the Honorable Senate of the State of Texas:

GENTLEMEN: I respectfully ask your advice and consent to the following appointment, to-wit: Osceola Archer, notary public, Travis county.

Very respectfully,

EDMUND J. DAVIS, Governor.

The following message from the Governor was read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 22, 1873. }

To the Honorable E. B. Pickett, President of the Senate:

SIR: In reply to the resolution of Senate passed to-day, and relating to a certain document purporting to be an annual report of the Comptroller, I have to state that at the request of Hon. S. Powers, chairman of House committee to examine the same, it has already been placed in his hands.

Very respectfully,

EDMUND J. DAVIS, Governor.

On motion of Senator Shelley, the communication was laid on the table.

A message was received from the House, announcing the passage by the House of House bill No. 44, "An act to incorporate the city of Brenham and grant a new charter."

Also, that the House had passed Senate bill No. 11, "An act making an appropriation for the mileage and *per diem* pay of the members, and *per diem* pay of the officers and employes of the Thirteenth Legislature."

Senator Ball introduced "An act to give effect to the provisions of the Constitution in relation to the settlement of homesteads by pre-emptions, and to open to settlement the State section, Memphis and El Paso Railroad," which was read and referred to the Committee on Public Lands.

The Committee on Engrossed Bills made the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Engrossed Bills have examined and compared with originals the following bills, and find them correctly engrossed:

Senate bill No. 1, "An act to repeal an act entitled an act to provide for the appointment by the Governor of certain officers to fill vacancies, approved June 28, 1870."

Senate bill No. 2, "An act to repeal an act entitled an act to provide for the enrollment of the militia, the organization and discipline of the State Guards, and for the public defense, approved June 24, 1870."

J. D. SAYERS, Chairman.

Judiciary Committee No. 1 made the following report:
Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on the Judiciary, to whom was referred Senate bill No. 14, entitled "An act to repeal an act to provide for appeals from interlocutory judgments in the District Courts of the State, approved November 1, 1871," instruct me to report, that having considered the same, they recommend the adoption of the substitute herewith reported, in lieu of said bill.

JNO. L. HENRY, Chairman.

Senator Finlay introduced a bill to establish a jail system, and to regulate the jails of the State of Texas. Read first time and referred to the Committee on State Affairs.

Senator Gaines offered a resolution, that the special committee appointed to examine the accounts of the Superintendent of Public Instruction, are instructed to also investigate his official conduct, and that of his subordinates, and for that purpose are authorized to send for persons and papers.

Senator Fountain moved to amend the resolution by adding "and that the chairman of the committee be authorized to administer oaths," which was accepted.

Senator Shelley moved to amend by adding "and that sheriffs and constables be and they are authorized to execute all process issued under this resolution," which was also accepted.

The resolution as amended was adopted.

Senator Shelley offered the following resolution, which was read and adopted:

Resolved, That the Secretary of State be and he is hereby requested to furnish the geological room in the third story of the capitol building for the use of enrolling and engrossing clerks of the two houses of the Legislature.

A message was received from his Excellency the Governor.

Senator Tracy introduced a bill amendatory and supplemental to an act entitled "An act to incorporate the Sabine and Galveston Bay Railroad and Lumber Company, passed," September 1, 1856, and other special acts to said company. Read first time and referred to Committee on Internal Improvements.

Senator Sayers introduced a bill to amend "An act to amend an act concerning proceedings in the district courts, approved March 16, 1848, approved November 9, 1866." Read first time and referred to Judiciary Committee No. 2.

Senator Dohoney offered the following resolution, which was adopted:

Resolved, That the Committee on Constitutional Amendments be requested to inquire into and report to the Senate whether there is a necessity for amending the present State Constitution; and if so, the best manner of doing so. Whether such amendments as may be necessary can likely be satisfactorily secured by submitting the same to a vote of the people, as prescribed by the Constitution; and if not, to inquire into the necessity and propriety of calling a constitutional convention for that purpose, and report to the Senate at an early day.

Adopted.

Senator Saylor offered the following resolution:

WHEREAS, On the seventeenth day of the present month of January, Wells Thompson, Esquire, presented to the Senate a memorial, in which he claimed the right to the seat in the Senate now occupied by Hon. R. P. Tendick, and prayed an inquiry by the Senate into the circumstances and facts of the election held in the Twenty-fifth Legislative District, on the twenty-eighth, twenty-ninth and thirtieth days of November, and the first day of December, 1870; and

Whereas, The memorial of the said Wells Thompson, Esquire, was referred by the Senate to the Committee on Privileges and Elections; and,

Whereas, The said R. P. Tendick appeared before said committee and excepted to the right of the said Wells Thompson, Esquire, at this time to contest his right to the representation of the Twenty-fifth Legislative District in the Senate of the State; and,

Whereas, The said committee overruled the exception of the said R. P. Tendick, and determined to proceed to

enquire into the regularity and fairness of the election held on the said twenty-eighth, twenty-ninth and thirtieth days of November, and on the said first day of December, 1870; and,

Whereas, The facts are that the returning officers of the said election declared the said Tendick to have been duly elected, to represent the said Twenty-fifth District in the Senate of the State, and the said Tendick took his seat in the Senate on the tenth day of January, 1871, and served until the thirty-first day of May, 1871, and again took his seat in the Senate on the twelfth day of September, 1871, and served until the second day of December, 1871, at which time the term of the members of the Twelfth Legislature expired; and during all this time the said Wells Thompson, Esquire, gave no notice to the Senate of any intention to contest the seat of the said R. P. Tendick; therefore be it

Resolved by the Senate of the State of Texas, That Wells Thompson, Esquire, has no right at this time to contest the seat of the Hon. R. P. Tendick, and that the Committee on Privileges and Elections be, and is hereby discharged from any further consideration of the memorial of the said Wells Thompson, Esquire.

Senator Pyle moved that the resolution be made special order of the day for Saturday next.

Senator Dohoney moved that the resolution be referred to the Committee on Privileges and Elections, which was lost by the following vote:

Yeas—Senators Avinger, Ball, Broughton, Cole, Dillard, Dohoney, Evans, Finlay, Henry, King, Latimer, Sayers, Shelley, Swift and Mr. President—15.

Nays—Senators Baker, Ford, Flanagan, Fountain, Franks, Gaines, Hall, Pyle, Rawson, Randall, Ruby, Saylor, Tendick, Tracy and Word—15.

Senator Shelley moved to lay the resolution on the table, which was lost by the following vote:

Yeas—Senators Avinger, Ball, Dillard, Dohoney, Evans, Finlay, Henry, King, Latimer, Sayers, Shelley, Swift, Word and Mr. President—14.

Nays—Senators Baker, Broughton, Cole, Ford, Flanagan, Fountain, Franks, Gaines, Hall, Pyle, Rawson, Randall, Ruby, Saylor, Tendick and Tracy—16.

Senator Saylor moved to make the resolution a special order for Monday next.

Senator Shelley moved to amend by substituting "Tuesday" in lieu of "Monday," which was adopted.

The resolution was made special order for Tuesday next, at 11 o'clock A. M.

The following communication was received from his Excellency the Governor, which was read and referred to the Finance Committee :

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 23, 1873. }
*To the Honorable Senate and House of Representatives
of the State of Texas :*

GENTLEMEN : I herewith enclose the estimates of expenditures for support of the State government for the present and ensuing fiscal years, spoken of in my annual message of the fourteenth instant.

The item of one hundred and twenty thousand dollars for the Lunatic Asylum, put under the head of special appropriations, is asked for the purpose of building the necessary additions to that institution required for the accommodation of patients that should be within its walls, but for whom there are now no accommodations.

The items under the head of school department are to be paid out of the available school fund only, and are not chargeable to the general revenue of the State. The sum total of these is my estimate of about what the available school fund will amount to for those two years. It will be noticed that under the Constitution and laws in relation to public schools, all of the available school fund (viz., interest on permanent school fund, the one-fourth of the State taxes and the proceeds of the capitation tax,) is to be divided annually among the respective school districts. This, of course, means that after deducting the expense of the superintendent's office and employes, supervisors, etc., the balance, whatever it may be, is to be distributed *pro rata* among the districts for the support and maintenance of the teachers and schools. This balance, you will see, I have estimated at four hundred thousand for each year, but that for the ensuing ought to be somewhat larger than that of the present year.

Respectfully,

EDMUND J. DAVIS, Governor.

Senator Shelley presented the following communication from the Comptroller, which was read and referred to the Committee on Comptroller's and Treasurer's Accounts :

OFFICE OF COMPTROLLER OF PUBLIC ACCOUNTS,
AUSTIN, January 22, 1873.

To the Honorable Legislature of the State of Texas:

GENTLEMEN: I hand you herewith a communication from the Executive declining to receive my annual report. He says, referring to my report, "on page thirty-three you state the assessed value of taxable property for 1871-1872, and the various taxes of that year, which differs in every item from your official statement to me of same matters made September 25 last." A statement made to-day of the assessed value of taxable property in the State, is liable to differ to-morrow from previous statements, for the reason that additional or corrected tax returns are made between statements, and when months have elapsed the statement "very materially differs in every item" from former statement. This will readily be understood by gentlemen of ordinary intelligence, but is beyond the comprehension of the present Executive. The statement of expenses of State government referred to as in excess of actual amount, is taken from the list of appropriations, and was accompanied by a statement that the amounts embraced disbursements for police and educational fund to December 3, 1872. The Governor charges that I "state the number of bonds, for which the State is responsible, as if sold," etc. In an official statement made by the Governor May 4, 1872, intended for the information of the financial world, and certified with the great seal of the State, he says, "the following condensed statement is furnished as showing the financial condition of Texas April 15, 1872;" and under the head of liabilities he makes this exhibit, viz:

"Amount of seven hundred one thousand dollar frontier defense bonds.....	\$700,000
Amount of interest on above bonds to March 1, 1872.....	25,000
Amount of three hundred and fifty-seven one thousand dollar ten per cent. bonds.....	357,000
Amount of interest on above bonds to March 1, 1872.....	6,000."

The closing of said report, giving the liabilities and assets, is as follows, viz:

"AUSTIN, TEXAS, May 4, 1872.
"I, Edmund J. Davis, Governor of the State of Texas,
certify that the foregoing is a correct and true statement

from the various official reports and statements on file in my office.

"Witness my hand and the great seal of the State, at my office in the city of Austin, this fourth day of May, A. D. 1872.

(Signed) "EDMUND J. DAVIS, Governor.

"By the Governor.

(Signed) "JAMES P. NEWCOMB,
"Secretary of State."

This whole exhibit of assets and liabilities should be preserved as an evidence of the financial capacity and genius of the present chief magistrate.

The Governor being charged with the sale of the bonds of the State, was presumed to know the amount disposed of; and I very naturally supposed the whole amount of frontier bonds disposed of.

My statement of ten per cent. bonds is identical with the above certified statement.

When bonds have been countersigned and registered in this office for sale, it is proper to treat them as debts against the State, in the absence of specific information to the contrary. No general account current of sale and hypothecation of bonds was made to this office until the eighteenth of January, A. D. 1873, after my report had been made.

There are now two statements, the first under the great seal of the State and the second without. I do not know which is correct.

The Executive says I "assume (in my report) functions which the Constitution and laws do not give, etc., by undertaking to advise the legislative department how to legislate in regard to matters not lying within the scope of the office of Comptroller of Public Accounts."

I take it honorable legislators are entirely competent to determine these matters without Executive dictation, and as far as I am concerned I am accustomed to ask for instruction when I want it, and supposed the present chief magistrate had attempted to dictate the manner in which I shall discharge my official duties long enough to cease to fatigue himself in that direction.

The charge of a want of respect to the Executive in my annual report is true, if by the charge he means I am not lost in admiration for his character as a statesman.

The charge of libeling the Governor and other heads of

departments I do not know how to answer, *unless it is a libel to give in my annual report copy of vouchers showing when the Executive used the people's money to pay for ice, horse brushes, curry combs, chamoise skins, and a large number of similar items.* I do not charge that facts like the above have anything to do with the Executive desire to suppress my report.

Very respectfully, your obedient servant,

A. BLEDSOE, Comptroller.

On motion of Senator Broughton the Senate took a recess of ten minutes for the purpose of going into executive session.

The executive session having adjourned, the Senate met; quorum present.

On motion of Senator Fountain, the Secretary of the Senate was instructed to inform his Excellency the Governor that the Senate do advise and consent to the appointment of A. G. Malloy Inspector of the Penitentiary.

Senator Sayers moved to suspend the rule and take up House bill No. 44, "An act to incorporate the city of Brenham." Adopted.

Senator Gaines moved that the bill be referred to Judiciary Committee No. 2.

Senator Sayers moved to amend by adding the words, "and that said committee be requested to report on the bill to-morrow morning," which was accepted.

The motion was adopted.

Senator Saylor introduced a joint resolution regarding the soldiers who fell at the battle of Glorietta, near Santa Fé, New Mexico, which was read first time, and referred to Committee on State Affairs.

Senator Dillard offered the following resolution, which was adopted:

Resolved, That the chairman of Judiciary Committee No. 2 be authorized to employ a clerk for the use of said committee and the Committee on Militia.

On motion of Senator Fountain the Senate adjourned until to-morrow 10 o'clock A. M.